IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 20751 of 2004

Between:

M/s. Everest Organics Limited, Regd. Office at 8-3-222/23/A, M.C.H. 138,
Near Alahabad Bank, Yousufguda Road, Madhura Nagar, Hyderabad 0 38,
Rep by its Managing Director Dr. S. K. Srihari Raju,

..... PETITIONER

AND

1 The General Manager, The New India Assurance Co., Ltd.,
Fire Tch. Dept., 7th Floor, Head Office, 87 M.G. Road, Fort,

Mumbai - 400 001.
2 The Regional Manager, The New India Assurance Co.Ltd., Hyderabad Regional Office, Surya Towers, 5th Floor, S.P. Road, Secunderabad.
3 The Branch Manager, The New India Assurance Co., Ltd.
Habsiguda Branch, Hyderabad.
4 Sri Bhaskar Joshi, The Official Surveyor, The New India Assurance Co. Ltd., Office at 5-4, Purushotham, L.T. Road, Opp : Rly, Station, Dahisar (West) Mumbai - 400 068.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, Order or Direction more particularly one in the nature of Writ of MANDAMUS declaring action of the Respondent No. 1 to 3 by delaying the finalization of the enquiry and the assessment made by Respondent No. 4 by way of re-enquiry in setting the petitioner claim to the accident dated 19-12-2002 against the Policy No. 610409/11/02/00151 and 00152, dated 08-05-2002 is as arbitrary, illegal, unlawful, unconstitutional and against to the principles of natural justice.

Counsel for the Petitioner: MR.V.VENKATA KUMAR

Counsel for the Respondent No1: MR.A.RAJASHEKAR REDDY (ASST.SOLICITOR GEN.)

Counsel for the Respondent Nos.2&3: Mr.V.Srinivas

The Court made the following:

ORDER:

The main activity of the petitioner company is producing pharmaceutical drugs. While so, fire accident has taken place on 19.12.2002 in the petitioner factory situate at Aroor Village, Sadasivapet Mandal, Ranga Reddy District. The petitioner's industry is covered by insurance policy No.610409/11/02/00151 and 00152 dated 8.5.2002 insured with the 3rd respondent company. On the happening of the fire accident, the petitioner company made a claim for losses/damages caused to it and on the request to assess the claim of the petitioner, a surveyor was appointed. According to the petitioner, the surveyor submitted his report on 9.1.2004. The 3rd respondent company without accepting the surveyor's report, it wants to make resurvey for settling the claim of the petitioner. Therefore, the petitioner has constrained to file this writ petition questioning the action of the 3rd respondent in resurveying the issue in question.

The learned counsel for the petitioner submits that the insurance company has no power or authority to resurvey the claim and it has to report the same to the Insurance Regulatory Development Authority in case of the dispute about the survey report and the said Authority in its discretion is entitled to appoint another surveyor and as such the report of the surveyor is binding on the insurance company.

The learned counsel appearing for the 3rd respondent insurance company submits that they have not taken any steps to resurvey the

claim for assessing damages, but they have only sought for certain clarification and no other surveyor was appointed and, therefore, it cannot be said that the insurance company has proceeded to resurvey the claim of the petitioner. It is stated that the survey report forms a piece of material for the insurance company and to settle the claim as per the survey report only certain clarification were required and, accordingly, the petitioner was called upon to submit the relevant particulars for settlement of the claim.

I have perused the copy of the insurance policy. As per Clause 7 of the said insurance policy, the insurance company is entitled to determine the actual loss sustained by the petitioner in exercise of its powers under the policy. The insurance policy is only to cover the actual loss and the petitioner cannot inflate any material and at the same time the insurance company cannot deny the actual loss sustained by the petitioner. Therefore, I am of the opinion that the insurance company has the power to call for certain information to determine the market value of the goods or property, as the case may be, and I do not see any illegality that has been committed by the insurance company as there is no resurvey that has been made by the insurance company.

The writ petition is, accordingly, disposed of directing the respondents to settle the claim of the petitioner as expeditiously as possible within eight weeks from the date of receipt of copy of this order. No order as to costs.

(V.ESWARAIAH, J.)

6.4.2005

kpr

To

1 The General Manager, The New India Assurance Co., Ltd.,
Fire Tch. Dept., 7th Floor, Head Office, 87 M.G. Road, Fort,

Mumbai - 400 001.

2 The Regional Manager, The New India Assurance Co.Ltd., Hyderabad

Regional Office - Surya Towers, 5th Floor, S.P. Road, Secunderabad.

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Mumbai – 400 068.

5. 2 copies to Mr.V.Srinivas, S.C. for New India Assurance Co.Ltd.

6. 2 C.D. copies